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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,209	01/16/2002	Daniel M. Humes	YAK 345	5505

23581 7590 03/29/2004

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PORTLAND, OR 97204

EXAMINER

BREVARD, MAERENA W

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 03/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,209

Applicant(s)

HUMES, DANIEL M.

Examiner

Maerena W. Brevard

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 6-8, 16, 19 and 20 is/are allowed.
- 6) ☒ Claim(s) 4, 5, 9-15, and 18 is/are rejected.
- 7) ☒ Claim(s) 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the second support extending generally vertically from the second end portion of the expanse to the inner end portion of the base, and additional third and fourth supports must be shown or the features canceled from the claims. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9-11 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 is indefinite and unclear since the first support, as described in the applicant's remarks (Paper No. 7), is not clearly defined or properly supported in the specification. The "first support" has already been disclosed as the expanse.

Claim 14, line 2, is unclear as to whether an additional "spring rib" is being claimed or whether the same as the "spring rib" of claim 12.

The dependent claims not specifically mentioned are rejected as being dependent upon a rejected base claim, since they inherently contain the same deficiencies therein.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Farrow et al.

In light of the new 112, 2nd rejection and the applicant's remarks, Farrow discloses a support member, to the same degree claimed, comprising:

- An elongate base (24);
- An adaptable elongate expanse (16);
- A first support (At lead line 12, Figure 2B) configured to extend generally vertically from the first end portion of the expanse to the inner end portion of the base;
- A second support (Figure 2B, opposite first support) configured to extend generally vertically from the second end portion of the expanse to the outer end portion of the base;
- A third support (at lead line 21) extending from the expanse to a center region of the base; and
- A fourth support (portion extending between lead lines 21 and 20B) extending from the expanse (Figure 2B) to the second support (at lead line 20b), to the same degree claimed.

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6. Claims 4, 5, 12-15, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Dean.

Regarding claims 4 and 5, Dean discloses a support member for use with a vehicle rack comprising:

- A base (38, figure 3) configured to attach to the vehicle rack;
- A resilient expanse (64) connected to the base;
- A spring rib (Appendix A) disposed under the upper portion of the expanse allowing compression of the expanse, wherein the expanse has an upper flexible portion and a lower stiffened portion, to the same degree claimed; and
- A stiffened portion supported by a load rib (Figure 4).

Regarding claims 12-14 Dean discloses an attachment for carrying different shaped boats on a vehicle rack comprising:

- A shell (28) having a resilient contact surface for a boat hull;
- The shell including at least two partial chambers (Appendix A) separated by a spring rib (74, Column 4, lines 36-37);
- At least one of the chambers is substantially deformable (Column 4, lines 32-33);
- The shell having a contact expanse and a load rib member supporting a lower portion of the contact expanse (Appendix A), to the same degree claimed; and
- A contact expanse and the spring rib resiliently supporting an upper flexible portion of the contact expanse (Figure 4).

Regarding claims 15 and 18, Dean discloses a rack for carrying a boat comprising:

- A pair of tower bodies (22);

- A crossbar (24) connected to the tower bodies;
- A pair of support members (28), each having an expanse having an upper portion (Proximate lead line 64, figure 3), a lower portion (Proximate lead line 80, figure 2), and a rib configuration (58) for supporting the lower portion (Figure 3) as claimed; and
- Each support member has a base (38) that is substantially parallel to the crossbar, and a back wall (59) connected to and extending generally perpendicular to the base.

Response to Arguments

7. Applicant's arguments filed 7/17/03 have been fully considered but they are not persuasive. The claims have been rejected as discussed in paragraphs 5 and 6 above.

Allowable Subject Matter

8. Claims 1-3, 7, and 8 are allowed.

9. Claims 6, 16, 19, and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mirenda et al. and Staller are cited for support members for carrying boats.

11. **This action is non-final.**


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maerena W. Brevard whose telephone number is 703/305-0037. The examiner can normally be reached on M-Th; 8:00 AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703/308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Maerena Brevard
March 8, 2004


GREGORY VIDOVICH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

APPENDIX A

U.S. Patent

Dec. 26, 2000

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6,164,507

